

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Alcoholic Beverage Control Act to address the budget of the Department of Alcoholic Beverage Control and the Alcoholic Beverage Control Commission.

Highlighted Provisions:

This bill:

- provides for how the budget is to be determined;
- addresses prioritization of expenditures;
- requires reporting; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

32B-2-301, as last amended by Laws of Utah 2013, Chapter 349

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **32B-2-301** is amended to read:

32B-2-301. State property -- Liquor Control Fund -- Markup Holding Fund.

(1) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided;

and

(b) property acquired, administered, possessed, or received by the department.

(2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) Except as provided in Sections 32B-3-205 and 32B-2-304, money received in the administration of this title shall be transferred to the Liquor Control Fund.

(3) (a) There is created an enterprise fund known as the "Markup Holding Fund."

(b) In accordance with Section 32B-2-304, the State Tax Commission shall deposit revenue remitted to the State Tax Commission from the markup imposed under Section 32B-2-304 into the Markup Holding Fund.

(c) Money deposited into the Markup Holding Fund may be expended:

(i) to the extent appropriated by the Legislature; and

(ii) to fund the deposits required by Subsection 32B-2-304(4) and Subsection 32B-2-305(4).

(4) (a) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided for by statute, except that the department may draw by warrant without an appropriation from the Liquor Control Fund for an expenditure that is directly incurred by the department:

~~[(a)]~~ (i) to purchase an alcoholic product;

~~[(b)]~~ (ii) to transport an alcoholic product from the supplier to a warehouse of the department; and

~~[(c)]~~ (iii) for variances related to an alcoholic product.

(b) (i) (A) Subject to the other provisions of this Subsection (4), the Legislature shall appropriate from the Liquor Control Fund to the department an amount equal to or greater than 15% of the five-year average of gross revenue from sales of liquor by the department calculated under Subsection (4)(b)(i)(B).

(B) The five-year average of gross revenue from sales of liquor by the department is the yearly average of the gross revenue, not including sales tax collected, from the sale of liquor by the department for the five fiscal years that have been closed by the Division of Finance that immediately precede the fiscal year for which the calculation is made.

(ii) If the five-year average of gross revenue from sales of liquor calculated under Subsection (4)(b)(i), as compared to the gross revenue from sales of liquor in fiscal year 2015-2016, does not increase in an amount sufficient to fund the 15% required by Subsection (4)(b)(i), the Legislature shall appropriate an amount equal to or greater than:

63 (A) the amount appropriated to the department in fiscal year 2015-2016 calculated as a
64 percentage of the gross revenue from sales of liquor; or

65 (B) the amount of the increase calculated as a percentage of the five-year average of
66 gross revenue from sales of liquor by the department calculated under Subsection (4)(b)(i)(B).

67 (c) The department shall use the money appropriated by the Legislature and drawn
68 from the Liquor Control Fund to pay for the general operations of the department and the
69 commission and to prioritize the following:

70 (i) beginning with fiscal year 2017-2018, to raise the salaries of department employees
71 consistent with comparable salary surveys prepared by the Department of Human Resource
72 Management;

73 (ii) to assign one manager for each state store where volume of sales warrants a single
74 manager;

75 (iii) beginning with fiscal year 2017-2018, to increase the number of department
76 employees that are full-time employees:

77 (A) until at least 50% of department employees are full-time; and

78 (B) determined on the basis of the employee working 40 hours a week and being
79 eligible for benefits normally provided by the department;

80 (iv) to provide training for new hires and existing state store employees to enhance:

81 (A) recognition of an intoxicated or an underage purchaser of an alcoholic product; and

82 (B) knowledge of alcoholic products;

83 (v) to provide sufficient security for state stores; and

84 (vi) to cover costs incurred by the department for credit card fees, transportation, and
85 increases in revenue provided to package agencies.

86 (d) The department shall report annually concerning the implementation of this
87 Subsection (4) to:

88 (i) the Business and Labor Interim Committee by no later than the Business and Labor
89 Interim Committee's November interim meeting; and

90 (ii) the Business, Economic Development, and Labor Appropriations Subcommittee.

91 (5) The department shall transfer annually from the Liquor Control Fund and the State
92 Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a
93 sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer

of money under this Subsection (5). The transfers shall be calculated by no later than September 1 and made by no later than September 30 after a fiscal year. The Division of Finance may make year-end closing entries in the Liquor Control Fund and the Markup Holding Fund in order to comply with Subsection 51-5-6(2).

(6) (a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

(7) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant drawn against the Liquor Control Fund by the department, the cash resources of the General Fund may be used to the extent necessary. At no time may the fund equity of the Liquor Control Fund fall below zero.

Section 2. **Effective date.**

This bill takes effect on July 1, 2017.